IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

COMPANY PETITION NO.155 OF 2007

In the matter of M/s.
Wings Entertainment Ltd.

Zee Telefilms Ltd. .. Petitioner.

Mr.Ranjit Shetty i/b PDS Legal for the petitioner.
None for the respondents.

CORAM : D.B.BHOSALE, J.
DATED : 19TH JULY, 2007.

P.C.:

. The learned counsel for the petitioner seeks leave to amend the name of petitioner-company since it has been changed as Zee Entertainment Enterprises Ltd. (formerly known as Zee Telefilms Ltd.). Leave as prayed is granted. Amendment to be carried out forthwith.

2. The petitioner is essentially in the business of Satellite Broadcasting Programmes through various Satellite Channels owned and controlled by them. Pursuant to requests made by the company and various release orders issued by the company, the petitioner had broadcasted advertisements of various promos on exposure slots on their channels. The petitioner raised various invoices uopn the company towards the

payment to be made by the company in respect of the said advertisement alongwith service tax payable. The company never denied their liability. The company by its letter dated 16th September, 2004 accepted its liability and further assured the petitioner that it will clear the above outstanding in four instalments of Rs.75,000/- each starting from October 2004 to January 2005 and the 5rh instalment of Rs.74,409/- in the month of February 2005. Despite the above acknowledgement of debt and assurance to pay the outstanding dues, the company failed and neglected to pay hence the petitioner vide their letter dated 8th November, 2004 sent a reminder but still there was no response from the company. In the circumstances the statutory notice under section 434 was issued by the petitioner on 7th December, 2005 calling upon the company to pay Rs.3,93,203/- with interest thereon within a period of 21 days from the receipt of the said notice. The notice was not replied by the company. This forced the company to file present petition. The circumstances show that debt is due and payable. The petition has been duly served on the company and an affidavit of service to that effect has also been placed on record. Despite this none appears for the company.

3. However, in order furnish the respondent with

an opportunity to avoid the consequences of the admission of the petition for winding up, it would be appropriate to pass a conditional order permitting the respondent to deposit the principal amount of Rs.3,93,203/-. Thereupon, the petitioner would be relegated to the remedy of filing a suit for the recovery of its dues together with interest and the amount so deposited would be credited to the account of the suit. Hence, the following order:

(i) Within a period of 3 months from the date of this order, the respondent shall deposit with the Prothonotary & Senior Master of this Court, an amount of Rs.3,93,203.00.

(ii) The petitioner is at liberty to file a suit no the Original Side of this court for the recovery of the price of the goods sold, supplied and delivered. The petitioner would be at liberty to institute a suit for the recovery of its dues within two months of intimation of deposit furnished by counsel for the respondent;

(iii) The amount deposited shall upon the institution of the suit stand transferred to the credit of the account of the suit;

(iv) The amount upon being transferred to the credit of the suit account shall be invested by the Prothonotary & Senior Master ina fixed deposit of a Nationalised Bank. The petitioner will be at liberty to move the court for directions in regard to the money which is deposited;

(v) In the event, that the Respondent fails to deposit the amount as directed, the company petition shall stand admitted. The petitioner to advertise the petition in "Free Press Journal", "Nav Shakti" and also in Maharashtra Government Gazette. The petitioner to deposit Rs.10,000/- with the Prothonotary and Senior Master towards publication charges.

(vi) If no suit is instituted by the petitioner within the period stipulated, the respondent would be at liberty to apply for discharge of the security.

4. The company petition is accordingly disposed of in the above terms.

(D.B.BHOSALE, J.)